

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs September 17, 2008

WILLIAM A. CLEMENTS, JR. v. STATE OF TENNESSEE

Appeal from the Circuit Court for Hickman County
No. 5079C-I Robert E. Lee Davies, Judge

No. M2007-02574-CCA-R3-PC - Filed October 15, 2008

The petitioner, William A. Clements, Jr., appeals the Hickman County Circuit Court's dismissal of his petition for post-conviction relief, which the petitioner filed in 2000 to challenge his 1993 convictions of three counts of aggravated kidnapping and one count of aggravated rape, for all of which he had received an effective sentence of 81 years. Following an evidentiary hearing, the post-conviction court determined that the petitioner had failed to demonstrate by clear and convincing evidence that he was incompetent to pursue post-conviction relief from November 1993 until September 2000, and, accordingly, it held that the post-conviction petition was barred by the statute of limitations. Upon our review, we affirm the order of the post-conviction court.

Tenn. R. App. P. 3; Judgment of the Circuit Court Affirmed

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER and J.C. McLIN, JJ., joined.

Michael T. Fort, Franklin, Tennessee, for the appellant, William A. Clements, Jr.

Robert E. Cooper, Jr., Attorney General and Reporter; Jennifer L. Bledsoe, Assistant Attorney General; Joseph D. Baugh, District Attorney General; and Jay Fahey, II, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

The dismissal of the post-conviction petition was based upon the statute of limitations which, at the time of the petitioner's convictions, imposed a limitation period of three years. *See* T.C.A. § 40-30-102 (1990) (amended 1995 Pub. Acts ch. 207, § 1). Although the 2000 petition was

not filed within three years of his 1993 convictions, the petitioner claims that principles of due process require that he be allowed to seek post-conviction relief.¹

In the post-conviction evidentiary hearing, the petitioner testified that, when he was processed into the Department of Correction following his convictions, he received a ten-minute medical examination which resulted in his being placed on “medications.” He testified that a prison psychologist subsequently inquired of him on occasion whether he was “feeling all right.” He testified that he typically responded to the inquiries in the affirmative.

The petitioner testified that his medications made him feel “‘down,’ in a passive state of mind, almost like . . . a drunk state.” He testified that the drugs sedated him and that on many days he was “just barely functional.” He testified that he experienced short-term memory problems while taking the medications and claimed that the only reason he could function at all in prison was because he was in a high security facility where “somebody tell[s] you what to do more or less 24/7 . . . everything’s controlled.” He testified that he stayed on the medications until, in October 1999, the prison doctors began to reduce his levels of medications, resulting in his “head . . . getting a little clearer some days.” He agreed that he had been assigned jobs in the prison, including work in the kitchen, but stated that his assignments were for menial work.

The petitioner’s ex-wife testified that the petitioner would telephone while he was in prison in 1995-96, and the petitioner “would act like he didn’t know who [she] was.”

The court received an affidavit of the petitioner’s sister, who was deceased at the time of the evidentiary hearing. His sister opined that, after the petitioner was imprisoned, he was very paranoid and irrational, sometimes “talk[ing] like he was a small child.” She further opined that the petitioner “was in such turmoil during those first five to six years, that we never knew who we were talking too. He was not thinking clearly, nor rationally.”

In addition to this testimony, the parties introduced into evidence by stipulation a number of documents, including:

Medical treatise information and the petitioner’s pharmaceutical regimen showing that the petitioner was taking multiple prescribed medications, some for “management of manifestations of psychotic disorders,” “management of anxiety disorders,” and “relief of symptoms of depression.”

¹The findings of the post-conviction court reflect that the petitioner escaped between the time the jury verdicts were rendered and the convening of a sentencing hearing. The trial court held the sentencing hearing in absentia. The defendant was later apprehended and incarcerated to serve his 81-year effective sentence. The post-conviction court indicated that no appeal was taken from the convictions or sentences.

1994 classification psychological summary quoting the petitioner as saying that he wanted to obtain a lawyer to appeal his Hickman County convictions and indicating that the petitioner was “friendly, alert and cooperative during testing and interview” and that “there was no evidence of thought derailment or hallucinations.” The summary indicated that the defendant would be referred to the psychologist because he reported anxiety.

Various 1994 health screening reports indicating that the petitioner’s behavior was “normal” and that he was housed in the general prison population.

1994 progress records noting that petitioner was “enrolled in school [and] looking forward to GED exam next week”; also stating that the petitioner reported, “I’m depressed and sleep bad,” but later, “I ain’t got no problems.”

1995 progress records indicating that the petitioner reported that he passed the GED examination and is out of school and working and noting the petitioner’s comments such as, “I’m great” and “doing fine.” One report indicated, “Good self-expression skills. He reports the medication he is currently on is working good.”

1996 progress records indicating that the petitioner reported getting “real nervous” and problems with sleep but, late in 1996, that “depression [was] resolved, doing well”; “asymptomatic.”

1997 progress records indicating that the petitioner was without “overt psychosis, or underlying thought disorder. No overt paranoia” and later that he was “alert and cooperative” with appropriate affect.

1998 progress records indicating that the petitioner reported, “I don’t have any problems” and noting appropriate affect and neutral mood.

Early 1999 progress record saying that the petitioner’s “thought content concerns trying to go back to court.”

1994-98 mental health treatment plans indicating that the petitioner reported experiencing paranoid ideations, mood swings, and auditory hallucinations but diagnosing organic mood disorder (due to head trauma) and major depression and prescribing continued medications to “reduce mood swings and to provide for adequate functioning while incarcerated.”

1997 health classification summary indicating “No known history” of mental health treatment.

1999 psychological evaluation finding anxiety, depression, and antisocial personality traits but ruling out “a major affective disorder.”

As mentioned above, based upon the evidence presented in the post-conviction hearing, the post-conviction court determined that the petitioner was competent throughout the time between his 1993 convictions and the 2000 filing of the post-conviction petition. Consequently, the court held that the petition was barred by the statute of limitations. We agree that the record supports this determination, and we affirm the post-conviction court’s order.

“Due process concerns may . . . be implicated in the post-conviction context where a potential litigant is denied an opportunity for the presentation of claims at a meaningful time and in a meaningful manner.” *Reid v. State*, 197 S.W.3d 694, 700 (Tenn. 2006). Thus, in appropriate cases, the bar of an otherwise valid statute of limitations may deprive a litigant of due process of law. *See, e.g., Burford v. State*, 845 S.W.2d 204, 208 (Tenn. 1992). When a prisoner’s incompetency precludes his timely filing of a post-conviction petition, principles of due process demand the tolling of the statute of limitations. *Watkins v. State*, 903 S.W.2d 302, 307 (Tenn. 1995). In the case of a prospective petitioner’s incompetency, the test remains whether he or she is “denied the reasonable opportunity to assert a claim in a meaningful time and manner due to mental incompetence.” *Reid*, 197 S.W.3d at 701.

For purposes of proceeding in a post-conviction case, the competency standard applied in civil cases in Tennessee satisfies the requirements of due process. *Id.* at 702. Pursuant to that standard, “a petitioner is incompetent if ‘he is unable either to manage his personal affairs or to understand his legal rights and liabilities.’” *Id.* (quoting *State v. Nix*, 40 S.W.3d 459, 464 (Tenn. 2001)). Due to *Reid*’s reliance upon the cases addressing the tolling of the *post-conviction statute of limitations*, we conclude that the competency standard for averting the limitations bar is the same as that prescribed in *Reid* for “proceeding” with a timely filed post-conviction petition.

In the present case, the record supports the post-conviction court’s determination that the defendant had not been impaired such that due process principles require the tolling of the post-conviction statute of limitations. Despite the petitioner’s testimony that he was barely functioning due to the medications he was receiving and his sister’s sworn statement that he was paranoid and irrational during his imprisonment, the various documents admitted into evidence show that, although the petitioner experienced depression, organic mood swings, and anxiety, he experienced no psychoses or serious mental illnesses. The documents further show that the petitioner functioned well enough to earn a graduate equivalency diploma, that he often reported “doing well,” that he was alert and cooperative, and that he often evinced an appropriate affect. The record demonstrates that throughout the contested period of time, the petitioner was able to manage his affairs and understood

his legal rights and liabilities. Based upon this record, we cannot say that the post-conviction court erred in not awarding the petitioner a much belated opportunity to seek post-conviction relief.

For this reason, we affirm the order dismissing the post-conviction petition.

JAMES CURWOOD WITT, JR., JUDGE